

## REMARKS

Favorable reconsideration is respectfully requested in light of the above amendments and the following comments. The claims have been amended for clarity and to more particularly describe the invention. In particular, claims 1, 18 and 28 have been amended to recite that the proximal portion of the strut (claim 18) or struts (claims 1 and 28) form an open, generally circular mouth when in a second position.

The generally circular mouth limitation can be found for example in original claims 5 and 20. One of skill in the art, having read the instant specification and reviewed the instant drawings will recognize that the generally circular mouth formed by the proximal strut(s) portion(s) will form an opening suitable for permitting emboli passage through the mouth and into the body of the claimed embolus extractor. It can be seen for example in Figure 1 that the proximal portion 30 of the struts 12 can curve radially to form an open, generally circular mouth. Thus, no new matter has been added as a result of these amendments.

Applicants respectfully traverse the Examiner's rejection of claims 1-10, 12-25, 27 and 28 under 35 USC § 102(b) as anticipated by Patterson et al., U.S. Patent No. 5,941,869. In order to anticipate, the cited reference must disclose each and every claimed element. Patterson et al. fail to do so.

In particular, Patterson et al. fail to disclose a strut (claim 18) or struts (claims 1 and 28) having a proximal portion(s) that form(s) an open, generally circular mouth. As evident to one of skill in the art, the claimed invention (illustrated for example in Figure 1) describes an open, generally circular mouth that easily permits emboli to pass through the open, generally circular mouth to reach the interior of the embolus extractor.

Instead, Patterson et al. (see Figures 30-32 as recited by the Examiner) a filter having a plurality of support members 96 that together provide support for a filter medium 98. Each of the support members 96 appear to gently arch from a proximal mounting point to a distal mounting point. None of the support members 96 appear to extend sharply away from a central shaft in such a way as to form an open, generally circular mouth.

While emboli can perhaps pass between adjacent support members 96, none of the support members 96 can be considered as forming an open, generally circular mouth as recited in the independent claims and as illustrated for example in Figure 1. Thus, Patterson et al. fail to disclose a claimed element and therefore cannot be considered as anticipating the claimed invention. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 11 and 26 under 35 USC § 103(a) as unpatentable over Patterson et al., U.S. Patent No. 5,941,869, in view of Gibbs et al., U.S. Patent No. 5,330,482. Patterson et al. are distinguished as above. Gibbs et al. are relied upon to suggest the use of shape memory materials such as NiTi alloys for forming the struts.

However, Gibbs et al. do not describe or disclose an embolus extractor having a strut or struts having a proximal portion(s) configured to form an open, generally circular mouth and therefore Gibbs et al. fail to remedy a noted shortcoming of Patterson et al. Thus, the combination of Patterson et al. and Gibbs et al. fail to disclose all elements of the claimed invention and therefore a *prima facie* case of obviousness has not properly been established. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claim 29 under 35 USC § 103(a) as unpatentable over Patterson et al., U.S. Patent No. 5,941,869, in view of Ladd, U.S.

Patent No. 6,059,814. Patterson et al. are distinguished as above. Ladd is relied upon to suggest the use of radiopaque markers.

However, Ladd does not describe or disclose an embolus extractor having a strut or struts having a proximal portion(s) configured to form an open, generally circular mouth and therefore fails to remedy a noted shortcoming of Patterson et al. Thus, the combination of Patterson et al. and Ladd fail to disclose all elements of the claimed invention and therefore a *prima facie* case of obviousness has not properly been established. Favorable reconsideration is respectfully requested.

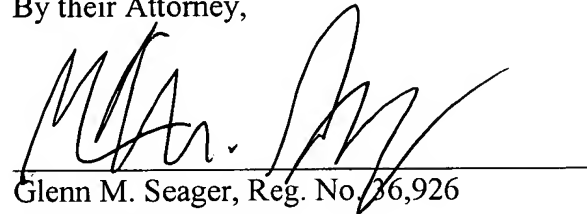
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

MEHRAN BASHIRI ET AL.

By their Attorney,

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Glenn M. Seager, Reg. No. 36,926  
Customer No. 28075  
CROMPTON, SEAGER & TUFTE, LLC  
1221 Nicollet Avenue, Suite 800  
Minneapolis, MN 55403-2420  
Telephone: (612) 677-9050  
Facsimile: (612) 359-9349